



Dryden Flight Research Center
Edwards, California 93523-0273

DCP-A-006
Revision: A

Dryden Centerwide Procedure

CODE A

NONCONFORMING PRODUCTS

Electronically Approved by:
Associate Director

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DOCUMENT HISTORY PAGE

This document is for informational purposes and does not need to be retained with the document.

DATE APPROVED	ISSUE	PAGE	AMENDMENT DETAILS
9/30/99	Baseline		
See IDMS Document Master List	Rev A	2,3	Made minor editorial changes to paragraphs 1, 2, 3d & 3g. In paragraph 3d, deleted references to SF 364 - <i>Report of Discrepancy</i> , and SF 368, <i>Product Quality Deficiency Report</i>

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NONCONFORMING PRODUCTS

1. PURPOSE

This procedure describes the process for documentation and disposition of nonconforming products or services. This procedure is applicable only to products or services procured through the Acquisition Management Office (Code A).

2. APPLICABLE DOCUMENTS

FAR 46.407 *Nonconforming supplies or services*

FAR 52.246 *Quality Assurance, provisions and clauses for FAR Part 46*

3. INSTRUCTIONS

- a. Government authorized individuals should reject products or services not conforming in all respects to contract requirements (See FAR 46.407). In those instances where deviation from this policy is found to be in the government's interest, such products or services may be accepted only as authorized in this procedure.
- b. Contractors ordinarily shall be given an opportunity to correct or replace nonconforming products and services when this can be accomplished within the required delivery schedule. Unless the contract specifies otherwise, correction or replacement shall be without additional cost to the government.
- c. Government officials shall ordinarily reject products or services when the nonconformance is critical or major. However, there may be circumstances when acceptance of such products or services is determined by the Contracting Officer (CO) to be in the government's interest. The CO shall make this determination based upon:
 - Advice of the technical activity (end user or commodity expert) that the item is safe to use, and will perform its intended purpose,
 - Information regarding the nature and extent of the nonconformance,
 - A request from the contractor for acceptance of the products or services (if feasible),
 - A recommendation for acceptance or rejection of defective items/services, with supporting rationale, and
 - The availability of contract adjustment considered appropriate, including any adjustment offered by the contractor.

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- d. The information of nonconformance should be furnished to the CO in writing by the receiving department. In some urgent cases it may be furnished orally and later confirmed in writing. Before making a decision to accept defective products, the CO shall obtain the concurrence of the activity responsible for the technical requirements of the contract and, where health factors are involved, of the responsible health official of the agency. The CO shall consider the impact of the nonconformance against contractor performance as part of the contractor evaluation (See [DOP-A-006](#)).
- e. The CO shall discourage the repeated tender of nonconforming products or services, including those with only minor nonconformances, by appropriate action, to include rejection and documenting the contractor's performance record.
- f. Each contract under which products or services with critical or major nonconformances are accepted as authorized in paragraph (c) of this section shall be modified to provide for an equitable price reduction or other consideration. For services, the contracting officer can consider identifying the value of the individual work requirements or tasks that may be subject to price or fee reduction. This value may be used to determine an equitable adjustment for nonconforming services. However, when products or services involving minor nonconformances are accepted, the contract shall not be modified unless:
 - It appears that the savings to the contractor of fabricating the nonconforming products or performing the nonconforming services will exceed the cost to the Government of processing the modification, or
 - The Government's interests otherwise require a contract modification.
- g. Notification of nonconforming product or service shall be given to the contractor through the CO. Notices of rejection shall include the reasons for rejection and be furnished promptly to the contractor. Promptness in giving this notice is essential because, if timely nature of rejection is not furnished, acceptance may in certain cases be implied as a matter of law. The notice shall be in writing if:
 - The products or services have been rejected at a place other than the contractor's plant,
 - The contractor persists in offering nonconforming products or services for acceptance, or
 - Delivery or performance was late without excusable delay.
- h. Deliverables with nonconformances that are discovered after acceptance can be rejected (See FAR 52.212-4(a) or 52.213-4(d)) if the Government has reported or will report the defect to the contractor:
 - Within a reasonable time after the defect was discovered or should have been discovered, and

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- Before substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

The CO shall consult with the legal office in determining the sufficiency of the evidence and ensure that the Government is not at fault. For commercial items, the CO may also invoke:

- An express warranty if a warranty clause has been incorporated by an addendum to FAR 52.212-4.
- An implied warranty if an implied warranty applies (See FAR 52.212-4(o)).

4. MANAGEMENT SYSTEM RECORDS

Management System Records are maintained in the Acquisition Management Office.